

From: [Darman, Leslie](#)
To: [Engelman, Alexa](#); [Chin, Lucita](#); [Wehling, Carrie](#)
Subject: RE: Quick AE question
Date: Friday, July 11, 2014 9:19:00 AM

Hi Alexa – as I was posing your question to the AE workgroup, I realized that there can be no AE that we approved for an aquifer under 3000 TDS that doesn't cite 146.4(b). Every AE needs to be based on 146.4(a) PLUS either (b) or (c), or it needs to be based on 146.4(d), which is essentially (a) plus (c) for Class VI wells. 146.4 (c) and (d) are only available if the aquifer proposed for exemption is greater than 3000 TDS. The WY AEs for Class I wells in Part 147 that may have cited (c) were exemptions for multiple aquifers, so some may have qualified for (c). I expect that the AE request was treated as substantial because there were also aquifers with less than 3000 TDS included in the request that would not have been eligible for an exemption under (c).

As for the database, Bob Smith manages it in HQs. I understand that it does include TDS data. I'll email him and ask if it's available for R9 to use, but if you or your program folks also want to reach out to him, he is Robert Eu Smith in the EPA email directory.

Leslie Darman
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From: Engelman, Alexa
Sent: Thursday, July 10, 2014 8:17 PM
To: Chin, Lucita; Darman, Leslie; Wehling, Carrie
Subject: RE: Quick AE question

Thank you all for your responses, this is very helpful as we move forward with the state to determine next steps on possible AE's. I came across the R8 Aug. 27, 1998 FR notice for the proposed AE below 3000 TDS with references to supporting data that appeared to fall under at least one of the 146.4(b) criteria. A database would be incredibly helpful!

I'm sure I'll circle back as our work develops on these AE's...

Thanks!
Alexa

From: Chin, Lucita
Sent: Thursday, July 10, 2014 12:35 PM
To: Darman, Leslie; Wehling, Carrie; Engelman, Alexa
Subject: RE: Quick AE question

I'm not aware of any AEs in our Region that are under 3000 TDS and also were exempted using 146.4(c) without one of the reasons under 146.4(b). I am also not aware of any under 3000 TDS and not associated with a permit application. I do know that R8 approved some AEs when states came in for primacy that were not associated with permits, but I'm pretty certain those aquifers were above 3000 TDS.

I will double check with the program to see if they might know of any.

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From: Darman, Leslie
Sent: Thursday, July 10, 2014 11:27 AM
To: Wehling, Carrie; Engelman, Alexa
Cc: Chin, Lucita
Subject: RE: Quick AE question

Hi Alexa -- My recollection is that the aquifer exemptions for certain Class I wells in Wyoming were for aquifers that were less than 3000 TDS. They are codified in 40 CFR 147.2555. The FR notices cited there probably have the TDS info and indicate whether they were based on 144.6(c). I am nearly certain that 144.6(b)(2) was a basis for those AEs, but I think Wyoming may have cited 144.6(c) as well.

OGWDW is trying to compile records on AEs and they may have the answer. They are hosting a conference call of the aquifer exemption policy workgroup later today. I'll ask if anyone knows of other

examples or if the database they're developing would be a useful resource for your question. I'm also copying Lucita in R8 in case she's aware of any examples of AEs that cite 146.4(c) for aquifers of under 3000 TDS.

PS –I've caught up on all the emails re the CA exemption issue – sounds like a good topic for a future AE attorneys call!

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From: Wehling, Carrie
Sent: Thursday, July 10, 2014 1:02 PM
To: Engelman, Alexa
Cc: Darman, Leslie
Subject: RE: Quick AE question

Hey, Alexa. Am forwarding your question to Leslie Darman who is our AE expert, back from vacation! I don't know the answer to your question but Leslie might.

Carrie
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From: Engelman, Alexa
Sent: Thursday, July 10, 2014 12:57 PM
To: Wehling, Carrie
Subject: Quick AE question

Carrie-
I'm working on getting our team ready for some potential new AE requests from CA as we move forward in this process and I was curious whether you know of any AE approved by EPA with less than 3000 TDS and not associated with the exemption criteria at 40 CFR 146.4(b)(1-4). I understand this would be a substantial program revision if it wasn't associated with a permit action.
Thanks,
Alexa

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